

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

MAX RIDINGS, ET AL.

Plaintiffs,

v.

SCOTT MAURICE, ET AL.

Defendants.

)
)
)
)
)
)
)
)
)
)

Case No. 4:15-cv-00020-JTM

**MOTION FOR RECONSIDERATION OF ORDER
DENYING IN PART DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Defendants Boehringer Ingelheim Pharmaceuticals, Inc., Boehringer Ingelheim USA Corporation, and Boehringer Ingelheim Corporation respectfully request that the Court reconsider its August 12, 2019 Order denying Defendants' motion for summary judgment on failure to warn preemption. *See* Order, Doc. 124 (Aug. 12, 2019) ("Order"). In its Order, the Court held that the issue of whether Plaintiffs' failure to warn claim is preempted should be decided by the jury at trial. Order, pp. 17-18. This holding conflicts with a recent binding decision from the U.S. Supreme Court, *Merck Sharp & Dohme Corp v. Albrecht*, 139 S. Ct. 1668 (2019). Accordingly, reconsideration is proper.

Defendants incorporate by reference their Suggestions in Support of Motion for Reconsideration of Order Denying In Part Defendants' Motion for Summary Judgment, filed this same date.

FOR THESE REASONS, and all reasons set forth in Defendants' original motion for summary judgment and reply, Defendants request the Court reconsider its order and grant summary judgment on failure to warn preemption.

Respectfully submitted,

/s/ Timothy J. Davis

Timothy J. Davis, MO # 62837
BRYAN CAVE LEIGHTON PAISNER LLP
1200 Main Street, Suite 3800
Kansas City, MO 64105
Tel.: 816-374-3241
tim.davis@bclplaw.com

Eric E. Hudson
BUTLER SNOW LLP
6075 Poplar Avenue, Suite 500
Memphis, TN 38119
Phone: (901) 680-7200
eric.hudson@butlersnow.com

*Attorneys for Defendant Boehringer Ingelheim
Pharmaceuticals, Inc.; Boehringer Ingelheim USA
Corporation and Boehringer Ingelheim Corp.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 26, 2019, the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system on all counsel of record.

/s/ Timothy J. Davis